



# **HUMAN RIGHTS AND THE INTERNET: a review of perceptions in human rights organisations**

*Report to the Association for Progressive Communications (APC)*

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## Introduction, objectives and methodology

This report, commissioned by the Association for Progressive Communications (APC), is concerned with the relationship between human rights and the internet; and with perceptions of the internet, its impact on human rights and the concept of internet rights within mainstream human rights organisations. It pays particular attention to the rights encapsulated in Articles 18, 19 and 20 of the Universal Declaration of Human Rights (freedoms of conscience, expression and association). The study forms part of APC's work on internet rights and freedom of expression and, in particular, the "Internet rights are human rights" project which is funded by the Swedish International Development Agency (SIDA).<sup>1</sup>

The report distinguishes between organisations such as APC - which are primarily concerned with the internet, other communications media and their impact on rights, development and society - and what it refers to as 'mainstream human rights organisations,' which some informants referred to as 'traditional human rights organisations'. By 'mainstream human rights organisations', the report means organisations that are primarily concerned with the promotion, exercise and enforcement of rights set out in the international rights regime - the Universal Declaration of Human Rights (UDHR), the International Covenants on Civil and Political Rights (ICCPR) and on Economic Social and Cultural Rights (ICESCR), the regional Conventions that result from these, and other internationally-agreed rights instruments such as the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This includes both independent public bodies with statutory responsibilities (such as National Human Rights Institutions) and non-governmental organisations which are concerned with monitoring, advocacy and campaigning work – groups which have distinct roles in the human rights community. Many organisations concerned with the rights included in these international instruments pre-date the introduction of the internet. Their work has been affected by the internet in many ways, but the internet itself is not their primary concern.

This report is an initial study which explores perceptions of the internet, its impact and the concept of internet rights among personnel in a number of mainstream human rights organisations. As an exploratory study, its purpose is to draw some initial broad conclusions and point towards ways of deepening understanding between mainstream human rights organisations, on the one hand, and organisations like APC which are more focused on the internet. Its findings are, therefore, indicative rather than comprehensive. The evidence on which it draws is derived from desk research into the work of mainstream rights organisations and, most importantly, extended interviews with one or more senior personnel in ten of these. These interviews are supplemented by the experience of the author and APC staff working in this field, and by informal discussions with selected experts in communications and other rights areas.

The aim of the interview research was to gather the views and perceptions of a sample of experienced mainstream human rights specialists with a variety of professional and managerial responsibilities, working in a range of different rights fields - not to assess or compare the work of individual organisations. The interview sample was drawn mostly, but not entirely, from global rights networks, some of which have their own national branches or chapters while others bring together independent rights organisations working at a national level around the world or in particular world regions. A few of these networks are concerned with issues across the entire

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<sup>1</sup><http://www.apc.org/en/node/11424>

spectrum of human rights, but the majority focus on a particular group of rights such as freedom of expression, children's rights, or the rights of minorities. All informants were interviewed as individuals, not as representatives of the organisations for which they work, and on the understanding that comments would not be personally or organisationally attributed.<sup>2</sup>

The structure of this report is as follows:

This introductory section outlines the objectives and methodology of the study and the structure of the report.

Section 1 addresses an important issue underlying the study – whether and in what ways, the internet may have changed the environment for human rights and rights organisations.

- Section 1A summarises perceived impacts of the internet on specific rights, using the articles of the UDHR as a proxy for the human rights framework as a whole.
- Section 1B identifies a number of questions which need to be addressed by rights and internet organisations when considering the relationship between human rights and the internet.

Section 2 draws on evidence from interviews with personnel from rights organisations to explore perceptions in four main areas:

- Section 2A is concerned with overall perceptions of the internet and its impact on society and the environment in which rights organisations work.
- Section 2B is concerned with perceptions of how the internet has affected four specific rights - freedom of expression and freedom of information (which derive primarily from article 19 of the Universal Declaration), freedom of association (article 20), and rights of privacy (article 12). It also comments on access to the internet.
- Section 2C is concerned with perceptions of how the internet has affected the human rights regime in general, including the nature of rights, the adequacy of the human rights regime and the relationships between specific rights.
- Section 2D is concerned with perceptions of how the internet has affected human rights organisations, including ways in which it has changed the nature of their work, ways in which they are using the internet, and ways in which the internet is posing further challenges to them. It also summarises perceptions of 'internet rights' and of the relationship between human rights organisations and the internet community.

Section 3 summarises the conclusions from the report.

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<sup>2</sup>As indicated above, informants were not interviewed as representatives of their organisations. A total of twelve individuals were interviewed at length. These currently work within the following organisations: Article 19; the Centre for Law and Democracy; the Child Rights Information Network; Human Rights Watch; the International Freedom of Expression Exchange; the International Women's Rights Action Watch; the Minority Rights Group; Privacy International; Transparency International; and one National Human Rights Institution. No comments or observations in this report are or should be attributed to any of the organisations listed in this footnote. Other rights professionals also provided input to the study. All comments cited in the text, whether directly or indirectly, are derived from interviews with these main informants.

## **Section 1 – Human rights, internet rights and the impact of the internet**

The purpose of this report is to assess perceptions of the relationship between the internet and the international rights regime among human rights specialists, not to draw conclusions about the relationship itself. This section of the report draws attention to some of the broad issues that have arisen in discussions of the relationship between human rights and the internet, as background context for the perceptions described in section 3. It is in two parts:

- Section 1A uses the articles of the UDHR as a framework for exploring where the internet is likely to have had significant impact on the nature, exercise, violation or enforcement of human rights, and on the relationships/balances between them. It should be read alongside the table at Annex 1.
- Section 1B identifies a number of questions which have arisen in debate around these issues and need to be addressed by rights and internet organisations when considering the relationship between human rights and the internet.

### **A) The internet and UDHR rights: likely areas of impact**

The international rights regime is a complex framework of inter-related rights articulated in a series of international agreements that share a number of common principles. As indicated in the introduction to this report, these include the International Bill of Human Rights (the UDHR, ICCPR, ICESCR), regional Conventions, and a group of additional global Conventions concerned with the rights of women (CEDAW), children (CRC), people with disabilities (CRPD) and migrant workers (ICRMW), and with issues of racial discrimination (ICERD), torture (CAT) and disappearance (CPED). A large number of other international documents on rights issues have been signed at global and regional levels, but these do not have the same status as this small group of global agreements, which can therefore be called 'the international human rights regime'. Both kinds of instruments are listed by the Office of the United Nations High Commissioner for Human Rights.<sup>3</sup>

Even the nine core international human rights treaties set out a complex array of rights. Within that framework, it is the Covenants, rather than the Universal Declaration, to which governments owe compliance. In Europe, national legal systems are subject to rulings of the European Court of Human Rights in respect of the European Convention. Later instruments such as CEDAW and CRC also impose obligations on governments and other stakeholders. However, discussions of the international human rights regime, including those concerned with rights and the internet, often use the UDHR as a shorthand summary of the rights regime as a whole. While this is not sufficiently nuanced for many purposes, and runs the risk of undervaluing (especially) CEDAW and the CRC, it can provide a useful proxy for the human rights regime as a whole, and is used for this purpose here.

A central question for this study is the extent to which the internet is perceived as changing the environment for human rights. One of the simplest ways of assessing this is to look in turn at each of the articles within the UDHR and identify where current internet technologies and their governance mechanisms appear to have or be likely to have a significant impact. The table set out in Annex 1 offers an initial summary along these lines. This seeks to differentiate (likely) outcomes

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<sup>3</sup><http://www2.ohchr.org/english/law/index.htm>

according to their degree and generality of significance. As well as impacts on individual rights, it seeks to identify (likely) impacts on the relationships/balances between rights.

The contents of this table are open to discussion. However, this initial assessment suggests the following main conclusions:

- 1) The internet is having a significant effect increasing the ability to exercise rights recognised in Article 19 (freedom of expression) and Article 20 (freedom of association) of the UDHR.
- 2) It increases the ability of citizens to exercise Article 21 rights (participation in government) and freedom of information (extrapolated from Articles 19 and 21).
- 3) New ways of exercising freedom of expression and freedom of association through the internet also lead to new ways in which those rights can be infringed.
- 4) The internet raises a number of new challenges to Article 3 rights (security), including threats from cybercrime and from surveillance.
- 5) It has significant effects on the ability of individuals to protect Article 12a (privacy) rights against intrusion by governments, businesses and other individuals.
- 6) It makes it easier to infringe and harder to protect rights in Article 12(2) (protection against defamation), Article 26(2) (racial and religious tolerance), and Article 27(2) (authorial rights) (and also some rights which are articulated in CEDAW and CRC).
- 7) It affects the relationships/balances between rights, including those mentioned in point 6 and those encapsulated in Articles 29 and 30 of the UDHR (protection of the rights of others, and of 'morality, public order and ... general welfare') and in the Covenants.
- 8) The internet has potential impacts on the realisation of some social and economic rights, in particular Article 26 (education) and Article 27(1) (cultural participation and scientific advancement).
- 9) It has potential impact on aspects of the right to fair trial (Articles 10 and 11).
- 10) Issues of equity arising from the differential availability of the internet (internet access) arise from Article 2 (equality of rights) and in a number of other areas.

While these points cover the main areas of the International Bill of Human Rights, it should be noted that they do not cover all aspects of the rights framework which are affected by the internet. In particular, there are rights within CRC and ICERD that concern protection of children and protection against racial discrimination, which the internet has made it easier to violate and more difficult to protect. The CRC also clarifies other rights for children, including children's rights of expression, association and access to information, which are affected by the internet.

Overall, however, it can be said that the internet is having a substantial effect in three particular areas of human rights – extending people's ability to exercise rights of expression and association and threatening rights of privacy. These areas of impact were emphasised by informants in the discussions reported in Section 2.

## **B) Questions and issues**

Debates around human rights and the internet are not new. They were prominent, for example, during the World Summit on the Information Society (WSIS), not just between rights organisations and governments, but also amongst rights organisations that took part in that summit - mostly those concerned with information and communication technologies (ICTs) and/or freedom of expression issues. A number of significant questions and issues have been raised in the course of these debates. The following paragraphs identify twelve issues which raise important background questions for understanding the perceptions of personnel from human rights organisation personnel described in Section 2. The paragraphs below describe these issues/discussions, referring specifically to aspects which concern the internet, without taking positions on them. They are intended to help contextualise the rights context for those who address these issues primarily from an internet technical and policy perspective, and cannot include all of the nuances of these complex debates among rights specialists.

Some of the issues raised here are considered in the 2011 report of the United Nations Special Rapporteur on Freedom of Opinion and Expression, Frank La Rue.<sup>4</sup> His report is explicitly concerned with the impact of the internet on these specific rights, rather than other aspects of the human rights regime or that regime as a whole.

### **1) *The taxonomy of rights – ‘human’ and other rights***

There is some uncertainty in discussion of rights and the internet surrounding the meaning of the terms ‘rights’ and ‘human rights’. These are not coterminous, and there have been differences of view over where the boundaries lie between ‘human rights’, which are taken to be universal, and other rights which are granted to citizens through national constitutions (‘constitutional rights’, ‘civic rights’), law (e.g. ‘consumer rights’, ‘employment rights’) or personal circumstances (rights associated with membership of a particular group or organisation). There may be a further difference in view here between those schooled in the United States (with its distinctive constitutional approach to rights) and elsewhere. One practical approach is to identify the term ‘human rights’ with those within the International Bill of Human Rights and other internationally agreed core rights instruments. However, terms such as ‘employment rights’ include both rights which are within these instruments and rights which are outside them (e.g. those established by national laws and, in particular instances, by negotiated agreements).

### **2) *The taxonomy of human rights – civil and political; economic and social***

The instruments in the International Bill of Human Rights include two main categories of rights: civil and political rights (Articles 1 to 21 in the UDHR) and economic and social rights (Articles 22 to 28). As well as being concerned with different dimensions of people’s lives, a distinction is generally acknowledged in terms of realisation of these rights. Civil and political rights can, in principle, be granted immediately even in contexts where they are extensively violated. For example, it is possible in principle to remove restrictions on freedom of expression instantly. Economic and social rights, such as the right to education or health, require investment and, where poorly available, are only in practice realisable over a period of time. The progressive realisation of these rights is related to issues of equality, including the right set out in Articles 1

<sup>4</sup>Available at [http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27\\_en.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf)

and 2 of the UDHR (equality and universal entitlement). Access to the internet is thought important to freedom of expression and association, which are civil and political rights, but, requiring investment, can only be realised progressively in the manner of economic and social rights.

### **3) Cultural diversity and relativism**

Rights included in the human rights regime, like the texts of all international agreements, are open to interpretation according to the social and political views of individuals and/or the norms of different cultures. Over the years since the texts of the Covenants were agreed in the 1960s, the meaning of rights in particular circumstances has been developed, both internationally and in individual countries, through jurisprudence and case law. Most rights advocates regard the rights set out in the international instruments as universal, i.e. applying equally to all individuals irrespective of where they live. However, some have argued that interpretations can and should differ nationally and regionally; for example, that some of the rights included in the instruments (especially privacy) are articulated in 'Northern' terms; and/or that economic and social rights are considered to have more importance, and civil and political rights less importance, in developing countries. Issues of cultural relativism have been particularly significant in relation to women's rights, a point raised in this study by informants with experience of CEDAW. The internet raises new challenges in this area because its global character enables individuals to bypass (varying) national laws, social norms and, indeed, rights frameworks.

### **4) Extensive interpretation**

The text of the international instruments does not directly cover many specific points which may be raised by discussion of human rights, and articles within the instruments have therefore been interpreted extensively in order to infer more indirect rights outcomes. Freedom of information, for example, is inferred by extensive interpretation of language in Article 19 of the UDHR (concerned with freedom of expression) and Article 21 (access to government). Access to the internet has been variously claimed as a human right by inference from Articles 2 (equality), 19 (freedom of expression), 21 (access to government) and 26 (education). However, extensive interpretations are inherently susceptible to differences of view, and consensus (where it has been reached) has taken time to develop. There is not consensus at present, for example, on whether access to the internet should be considered a human right, although some governments (such as that of Finland) have agreed that it should be a constitutional or legal right within their jurisdictions.<sup>5</sup> In his 2011 report, the UN Special Rapporteur on Freedom of Opinion and Expression suggests that ensuring access to the internet should be 'a priority' for states, and reminds governments 'of their positive obligation to promote or to facilitate the enjoyment of the right to freedom of expression and the means necessary to exercise this right, including the Internet,' but does not – press comment to the contrary notwithstanding – describe internet access as a right in itself.

### **5) Technology and human rights**

Related to this is debate over whether human rights should be interpreted extensively to include specific technologies (such as telecommunications or the internet). Generally speaking, human rights in the international instruments are expressed in broad conceptual terms which are not

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<sup>5</sup>Ibid., p. 18.

susceptible to change over time (e.g. fair trial, freedom from torture, freedom of conscience, education). The technologies which are most suitable for exercising and enforcing these generic rights change over time. In the case of freedom of expression, for example, print, radio, television, telephony and the internet have played varying significant roles at different times (and do today in different countries). Access to telecommunications has not usually been considered a 'human right' but universal access to telecommunications has been mandated by many governments through legislation and economic regulation. A recent article by the internet pioneer Vint Cerf,<sup>6</sup> in which he argued that the internet should be regarded as a constitutional right and an enabler of rights (a term also used by the UN Special Rapporteur) rather than as a human right per se, provoked considerable debate.<sup>7</sup> One aspect of this is whether human rights should be considered fixed or mutable. As the technologies that enable rights vary over time, the explicit inclusion of those technologies in the text of human rights instruments would imply that the instruments themselves would also need to change over time – though extensive interpretations that treat technologies as necessary enablers of rights would not require this.

## **6) Ranking rights**

Rights within the international human rights regime are not ranked in any kind of hierarchy; no right is considered more important than another right. Some rights, however, have been regarded as having instrumental significance in enabling other rights, among them freedom of expression and association. Different people and organisations emphasise different rights, according to their interests and mandates, and according to the extent to which rights are respected within different societies.

There is, however, a perception in some rights organisations that governments (and even other rights organisations) pay less attention to some rights than to others. Some women's rights organisations, for example, feel that insufficient attention is given to CEDAW rights within the overall rights framework. There is a similar perception among some concerned with protective rights (particularly child protection) that some in the internet community privilege freedom of expression and pay insufficient attention to (in some cases, ignore or even oppose) other rights within the human rights regime (see also point 12). This debate is related to discussions of the balance between rights and to arguments about whether rights within the human rights regime should be regarded as mutually reinforcing and/or indivisible.

## **7) The relationships/balances between rights**

As well as impacting individual rights, the internet has also had an impact on the balance between rights (as identified in the table at Annex 1). The international human rights regime can be, variously, regarded as a statement of indivisible rights; a package of interlocking rights; or a list of individual rights. Interpreting the regime as a package of rights emphasises the relationship between different rights within the regime (which most but not all rights advocates would describe as a balance); interpreting it as a list of rights disemphasises that relationship/balance. Balance is considered necessary by most rights advocates because the exercise of some rights within the regime depends on restraint in the exercise of rights by others (e.g. the individual's rights to fair trial, privacy and protection against defamation depend to some degree on restraint by – or of –

<sup>6</sup>Currently Google's 'Internet Evangelist'

<sup>7</sup><http://www.nytimes.com/2012/01/05/opinion/internet-access-is-not-a-human-right.html>. A commentary from Joy Liddicoat of APC can be found at <http://www.apc.org/en/news/access-internet-and-human-rights-thanks-vint>.

others in the exercise of freedom of expression). Some informants for this study described balance as a core feature of the human rights regime.

This relationship/balance is most clearly expressed in Articles 29 and 30 of the UDHR, which assert that rights within the Declaration are subordinate to the principles of the United Nations and to 'such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society,' and that they may not be used 'to perform any act aimed at the destruction of any of the rights and freedoms' in the Declaration. Similar text appears in other international human rights instruments, most notably the Covenants. Any restrictions on human rights are expected to be necessary and proportionate, and subject to the rule of law. These relationships/balances need to be considered both generally and in the specific contexts where conflicts arise.

### **8) *Rights and responsibilities/obligations of governments***

The international rights regime is primarily directed at the relationship between the state and the citizen, and so at imposing responsibilities on governments. Governments have two main obligations in this context – a) to respect the rights of citizens in their own dealings with them (e.g. to guarantee fair trial, refrain from torture, provide schools and other educational facilities), and b) to protect citizens from violations of their rights by others (e.g. to protect their lives, liberty and security, protect their privacy, protect them against defamation and child abuse). The former obligation requires restraint in the government's use of law and power, while the latter requires it to use its authority and legal instruments to prevent abuse. The boundaries to state power and authority are therefore an important area of debate.

### **9) *Rights and responsibilities of individuals***

The human rights regime requires non-government stakeholders (including companies and individuals) to respect the rights of others, and therefore to exercise restraint in their own behaviour. This is directly expressed in Article 29(1) of the UDHR – 'Everyone has duties to the community in which alone the free and full development of his personality is possible' – and, for example, Article 19(2) of the ICCPR, which asserts that 'the exercise of [freedom of expression] carries with it special duties and responsibilities' and may therefore be 'subject to certain restrictions, [which should] only be such as are provided by law and are necessary (a) for respect of the rights or reputations of others; [and] b) for the protection of national security or of public order, or of public health or morals.' Some such limitations are articulated in constraints on rights such as the prohibitions on 'propaganda for war' and hate speech in the ICCPR and ICERD and protections against abuse of children in the CRC. Norms concerning the relationship between individuals and society, and legal instruments relating to these, vary between cultures, and are affected by the increased opportunities for expression resulting from the internet.

### **10) *Assessing the impact of the internet on human rights***

The overall impact and potential impact of the internet on individual rights and on the relationship/balance between rights were discussed in Section 1A above. Perceptions of the extent to which the internet has affected the nature of human rights and the ability of governments, businesses and individuals to exercise, violate and enforce them are discussed in Section 2 below.

It is clear from both discussions that the internet enables some rights to be exercised more effectively, because it makes possible or easy some behaviours that were previously impossible or difficult. Likewise, and for the same reason, it enables some violations of human rights to be undertaken more easily and effectively, and introduces new ways in which certain rights can be violated, by any or all of governments, businesses or individuals. In some cases, understanding of the meaning of individual rights may be changing, as people adjust and adapt behaviour to the new realities of the internet/information age (or fail to do so). The pace of change in information and internet technology, services and markets is much faster than normal patterns of change in human behaviour.

### **11)        *The concept of a 'right to communicate' and 'communication rights'***

During the first phase of the World Summit on the Information Society (WSIS, 2003), human rights organisations were divided over whether the international rights regime should be amended to include a specific right to communicate or a specified set of communication rights. Those that argued in favour of this approach felt that the existing human rights instruments did not adequately reflect the centrality of communications in the coming information society. Those that argued against it felt that existing human rights instruments covered all necessary principles and that revising these was both unnecessary and dangerous, since it could open other aspects of the rights regime to renegotiation. No new communication rights were agreed in the official WSIS outcome documents.<sup>8</sup> A civil society declaration issued at the end of the first phase of WSIS described human rights as central to an 'information and communication society', called for national laws and regulations concerning ICTs and the internet to be consistent with international rights instruments, but did not seek to revise those instruments.<sup>9</sup>

### **12)        *Rights and internet paradigms***

The international human rights regime depends for its enforcement on governments and legal instruments (constitutions, laws, courts). Mainstream human rights advocates tend to emphasise the importance of law and to focus attention on the role which governments and systems of law should play in enabling and enforcing rights. The historic ethos of the internet differs from this in that it has sought to distance internet governance from government institutions and legal controls. Some in the internet community have expressed this in libertarian terms. Discussions of 'internet rights' have tended to focus around the 'founding principles' and norms of the internet itself, such as net neutrality, open standards and multistakeholder participation (as set out in the latter half of the APC Internet Rights Charter<sup>10</sup>). Some internet advocates have also seen the internet as a way of bypassing laws with which they disagree, including some which implement aspects of the human rights regime (authorial rights, protection against defamation). Although this can be over-emphasised – particularly given the importance of government and business in today's internet – it can be argued that there are significant differences between a mainstream human rights paradigm which emphasises the role of law and state responsibilities for upholding human rights, and an internet rights paradigm, which has sought to minimise the role of the state in relation to the internet and what it enables. A number of informants for this study clearly felt this to be the case.

<sup>8</sup> Available at [www.itu.int/wsis](http://www.itu.int/wsis).

<sup>9</sup> <http://www.itu.int/wsis/docs/geneva/civil-society-declaration.pdf>

<sup>10</sup> <http://www.apc.org/en/node/5677/>. This document was drafted in 2001.

## **Section 2 - Perceptions of the internet and internet rights**

This section of the report summarises perceptions of the internet and internet rights that emerged from extended interviews conducted for the study with personnel currently working in ten mainstream human rights organisations. Its purpose is to report the perceptions that were expressed, rather than to discuss them or juxtapose them with other views on the issues concerned. Some broad conclusions emerging from the interviews are summarised in section 3.

- Section 2A is concerned with overall perceptions of the internet, its impact on society and on the environment in which human rights organisations work.
- Section 2B is concerned with perceptions of how the internet has affected four specific rights - freedom of expression and freedom of information (which derive primarily from article 19 of the Universal Declaration), freedom of association (article 20), and rights of privacy (article 12). It also comments on access to the internet.
- Section 2C is concerned with perceptions of how the internet has affected the human rights regime in general, including the nature of human rights, the overall adequacy of the rights regime and the relationships between specific rights.
- Section 2D is concerned with perceptions of how the internet has affected human rights organisations, including ways in which it has changed the nature of their work, ways in which they are using the internet, and ways in which the internet is posing further challenges to them. It also summarises perceptions of 'internet rights' and of the relationship between human rights organisations and the internet community.

The overall findings from these interviews can be summarised as follows:

The internet is believed to have substantially extended the ability of citizens to exercise freedom of expression and freedom of association. At the same time, it is seen as having raised new challenges concerning the relationship between the citizen and the state, privacy and surveillance, content controls, and the relationship between rights and responsibilities. The impact on privacy is seen as being particularly negative.

The work of human rights organisations has been substantially affected by the internet, in terms of both caseload and working methods. However, they have had insufficient time and resources to devote to analysing the impact of the internet effectively or to maximising its value in their work. There has been relatively little contact between mainstream rights organisations and the internet community.

### ***A) Perceptions of the internet and the wider rights environment***

Rights organisations are concerned primarily not with the internet but with the areas of rights on which their mandates focus – which may be general (in the case of organisations like Amnesty International and Human Rights Watch) or specialised (in the case of those which focus, for example, on women's rights, children's rights or freedom of expression) – and on what one informant summarised as 'getting governments to respect rights' in those mandate areas.

The internet – which is an or the main area of focus for internet rights and communications-oriented civil society organisations – is only one among a number of significant external forces which mainstream rights organisations see as changing/affecting the overall context for their work

today. As well as the internet, these contextual forces include the growing significance of climate change and the shift in economic and political power from North to South and West to East. One informant, for example, described 'adjusting to the new realities of the world' as a priority need for rights organisations, referring by this not to the emergence of an 'information society' but to the growing importance of developing market economies where he felt that respect for human rights was 'less entrenched.' Similar points were made by other interviewees, at least one of whom felt that the changing balance of global power had consequently put more pressure on both rights and rights defenders. The influence of the BRIC countries<sup>11</sup> and other developing market countries (such as Iran) is likewise growing in internet governance and ICT decision-making fora.

The internet is seen by most informants as having had a marked impact on the development of society but is not generally perceived as having been transformational in the way that is sometimes asserted in the internet community or by bodies such as the Broadband Commission for Digital Development. As one informant put it, there have always been new developments in communications, of which the internet is the latest manifestation; these developments don't necessarily change the world or the fundamentals of society. Another emphasised the interaction of the internet with local political change, citing Kenya as an example in which, she felt, a change of government (four years ago) had had more impact on the internet than vice versa.

This should not be surprising. Rights NGOs, like development NGOs, tend to emphasise human, rather than technological, agents of change. People who spend their working lives dealing with the internet are likely to consider it more, and more fundamentally, important than those who spend their working lives dealing with the rights of political prisoners or basic healthcare. Several informants felt that people in the internet community overemphasise the significance of the internet and technology or lack perspective on the relationship between them and other aspects of social, economic and political change. The importance attached to contextualisation of the internet by informants points to a paradigm gap in perceptions between mainstream rights and internet professionals, which is considered further in section 2D.

Overall, the internet was felt by informants to have brought about what one called a 'more engaged citizenry', with more extensive social networks and more involvement in social and political processes – though the impact of this was greater in some social groups (such as the young) and geographical areas (such as urban centres, at least in developing countries). This was perceived both as having increased the scope for expression and association and as having changed the nature of human rights violations and increased their scope (see sections 2B and 2C).

Although not generally regarding the internet as transformational, most informants felt the scale of its impact was very substantial, both on society as a whole and on the work of human rights organisations, and expected it to have increasingly substantial impact in the future. It was something that they recognised altered both the parameters and the modalities of their work, and to which they felt they should pay more attention.

One informant had a different perspective. He felt that it was mobile telephony, rather than the internet, that had been a 'game-changer' for rights, especially in marginalised communities, at least to date: mobiles, he said, had led to 'a very radical change in our ability to work and how other people work in both economic opportunity and interconnectedness.' The internet, he argued, had not yet had so radical an impact: it was always being said that it would transform circumstances for the poor and marginalised, but the prospect of that transformation seemed to

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<sup>11</sup> Brazil, Russia, India and China.

recede into the future as time went by. These points are similar to those made by some grassroots development advocates in discussions about the relative importance of mobile telephony and the internet in the application of ICTs for development (ICT4D).

There was a good deal of comment from informants about ways in which the internet has changed relationships between different actors in the rights environment. In particular, the predominance of the private sector in the development and supply of the internet and applications running over it was seen to have increased the intermediary role of the private sector in enabling and constraining human rights. One informant called this 'the most important challenge of the moment,' arguing that, while it is governments that have the primary responsibility of enabling and protecting rights within the human rights regime, the fact that the internet is (these days) an overwhelmingly private sector environment has given businesses a much greater part in practice than they have been used or expected to exercise. As discussed below, it had led to states asking private sector businesses to perform roles, including roles affecting rights and law enforcement, which would previously have been exercised by government agencies. Some informants thought that states (rather like rights organisations themselves, perhaps) had been slow to pick up on the significance of the internet's development, but that they were now increasingly concerned to manage or control internet outcomes and especially to mitigate perceived/potential harms. Governments' uncertainties about how they could achieve this, given the internet's distinct (including global) character and unpredictable development, were seen as challenging for all concerned (and had no easy answers).

As discussed in section 2C below, none of those interviewed for this study felt that there is a case for revising the international human rights regime in order to accommodate the internet. On the contrary, they felt that the regime as it stands is sufficient to address the impact of the internet, and that there is no case for or merit in amending the international instruments.

## ***B) Perceptions of how the internet affects specific rights***

Interviewees and agency literature clearly indicate a perception that the internet has affected rights, particularly freedom of expression, freedom of association and rights of privacy. This impact is seen as largely, and strongly, positive where freedom of expression and association are concerned, but also as having enabled new forms of abuse. It is perceived as having much more negative impacts on privacy. It is also seen as having affected relationships between rights, and between rights and behavioural norms, in ways that can be both positive and negative for rights outcomes overall.

As noted in section 1B, there is a tension in discussion of human rights between consideration of individual rights as discrete entities within the international rights regime and discussion of the rights regime as a complex and integrated package. This sub-section (2B) is concerned with perceptions of the impact of the internet on specific rights, in particular freedoms of expression, association and information, and rights of privacy. It also includes some comments on perceptions of access to the internet. The following subsection (2C) looks at perceptions of the internet's impact on the human rights regime more generally.

### ***i. Freedom of expression***

'The most transformative thing that the internet has brought about,' one informant said, is that it has extended word of mouth into a virtual realm. In the words of another, 'the internet is and is

becoming the key medium' for individuals exercising free expression, 'the first reflex for self-expression by individuals in the modern world.' For a third, the internet has enabled freedom of expression to reach beyond the media to 'a more engaged and expressive citizenry,' and pushed governments to pay more attention to the views that citizens express.

The internet is seen as having provided many more ways in which individuals may exercise freedom of expression (blogs, social media, Twitter, etc.); made it extremely cheap for individuals to publish their views/content; enabled them to reach audiences that were previously out of reach; and enabled them to do so anonymously. Many of these outcomes result as much from Web 2.0 tools, which offer far greater opportunities for self-publication and interaction, as from the internet more generally. One informant noted that this greater freedom of expression was not evenly distributed, but had been exploited most by certain social groups (urban youth and professionals), at least in developing countries where access is less equitable.

Informants saw a need, however, to place the impact of the internet on freedom of expression within the wider context of social and political change. Its impact can clearly be exaggerated. It is possible to attribute to the internet gains in freedom of expression which actually result from other political changes - a point raised, for example, in discussions about the uprisings in the Middle East and North African (MENA) region which have become known as the 'Arab Spring'. Protest, in short, did not and does not begin with the internet, though the internet is felt to have changed some of its dynamics.

Some informants discussed the relationship between freedom of expression and freedom of the press. One of these described freedom of expression as a human right, vested in an individual, as distinct from freedom of the press, which he saw as an important feature of a democratic society but not a human right - and therefore something which can legitimately be limited (for example by public service broadcasting rules) in ways that a human right should not be limited. Because the internet has changed the nature of publication, this informant argued, it requires fresh thinking about the relationship between freedom of expression and freedom of the press. One informant emphasised that journalists (and, by implication, also bloggers) should not expect privileges, in terms of expressive rights, over other citizens.

The relationship between traditional media and new modes of public expression such as blogging and 'citizen journalism' invited comment from a number of informants. Several pointed to the widespread view that, as one put it, 'the distinction between press and non-press is diminishing.' Several also expressed concern about the ways in which new modalities of expression are absorbed within behavioural norms and affect the terms in which people express themselves, interpret the information available to them, and understand the relationship between information and society. One informant felt for example that expression had become much more opinion-oriented and egocentric in the digital age, which had not enhanced debate in the ways that had been hoped. This, together with anonymity, might be one reason why the blogosphere was often so aggressive - a place in which, one informant commented, people often talk to and for themselves without communicating with or listening to others.

Several informants argued that people had not yet adjusted to assessing the value and integrity of online information sufficiently (by comparison with that from print and broadcast sources): people tend to be credulous about what they read online, one said, and place too much trust in the intelligence of crowds. Another put the changing relationship between information and society in more analytical terms. In his view, 'free societies' had evolved a relatively stable relationship with

information, in which people had a clear idea of what information could be trusted and what could not. Rumours and conspiracy theories were signs of an unstable relationship between information and society which was more commonly found in societies that were less free or were just emerging into relative political freedom. The transition from traditional media to a more diverse, less validated range of information sources may, he felt, be making understanding of information more unstable in free societies as well, the implications of which for social and political development were uncertain. The quality of information, he believed, was of particular importance for rights organisations (see section 2D).

Some informants emphasised the relationship between rights and responsibilities. Freedom of expression, one stressed, means that the state should not stop you from saying things, but that does not mean that you should say them. Social constraints that moderate speech at a local level, or in face-to-face communications, have been an important part of social dynamics (for example in inhibiting 'hate speech' and bullying), but they do not apply in the same way on the internet where expression can be anonymous and can have effects well beyond the intended audience. Such unintended impacts occur when things 'go viral' on new media – this informant cited, for example, criticisms of religious belief in one country, where they would be regarded as innocuous, leading to political violence in entirely different regions of the world. While freedom of expression entitles people to offend other religions, he implied, they were not accustomed to assessing the impact of their words and actions on a global rather than a local audience and so did not adjust their behaviour in ways that would be socially responsible in that global context. These issues were also seen as relevant where freedom of expression interfaces with other human rights, notably with child protection.

Finally, a corollary to greater freedom of expression was seen to be the extent to which more opportunities for expression led to more instances and ways in which expression could be suppressed. This is discussed in section 2C below.

## ***ii. Freedom of association and assembly***

Freedom of association and, especially, assembly is the second main area in which informants felt that the internet has extended the ability to exercise rights – described by one informant as 'a huge advance'. Along with mobile telephony, and particularly through social media, the internet was seen to have enhanced both the ability of individuals and groups to organise virtually (online) and the ability to coordinate and micro-coordinate offline activities such as protests and demonstrations. (Coordination here applies more to the organisation of events, including protests, in advance; micro-coordination more to the organisation of activities on the ground while they occur.)

The Arab Spring was cited by informants as illustrating the capabilities of new media in coordinating protest, an observation that has been widely made elsewhere. The substantial significance of online activity in this context had been recognised by the efforts of some governments to close down the internet in order to counteract protest. At the same time, some informants suggested that discussion about the impact of new media on protest had not distinguished well enough between its role in coordinating protest from the underlying causes of protest itself. Uprisings and revolutions have, after all, taken place long before the internet. There is a risk that its role has been exaggerated.<sup>12</sup>

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<sup>12</sup>There are evident points of comparison between the internet's role in the Arab Spring and that which pamphlets and pamphleteers played during earlier civil conflicts such as the English revolution of the

One informant emphasised the importance of mobile communications and (to a lesser degree) the internet in enabling marginalised communities to do things collectively - to engage in community self-organisation, to talk among themselves rather than (or as well as) to talk with others. In this context, the internet may seem to be working like an intranet for members of a specific ethnic, religious or cultural community. This might be considered relevant to the right to culture, as (rather narrowly) defined in Article 27 of the UDHR. It had proved particularly valuable for communities divided by political borders, and in connecting diaspora communities with home communities. As well as for minorities, this was seen as being important for home communities living under political constraints, such as those in China and Iran.

Although multilingualism on the internet has been a major issue in discussion amongst internet rights advocates, it was little raised by informants. Where they did mention it, they were concerned about the lack of rights-related content in non-global languages, rather than technical issues of multilingualism such as internationalised domains.

### ***iii. Freedom of and access to information***

Freedom of information, or the right to information, is not as explicitly articulated in international human rights instruments as freedom of expression or freedom of association. It can be extrapolated from Article 19 of the UDHR which calls for the freedom 'to seek, receive and impart information and ideas through any media and regardless of frontiers.' National legislation concerning freedom of information is therefore less firmly rooted in international human rights instruments. There is nevertheless a vibrant community of organisations concerned with access to information, which is welcomed and supported by mainstream rights organisations such as those included in the study. These are concerned to take advantage of the new opportunities for information access and open data that result from digitalisation, the transition from the inherently limited data-sharing capabilities of paper-held information sources to the potentially unlimited sharing capabilities of a digital environment. This increased potential for data-sharing also has implications for privacy and data protection (see below).

Respondents noted that more information does not necessarily enlighten. One informant emphasised that, while transparency and accountability can be enhanced by the internet, much depends in practice on how information is made available. Too much disclosure, he said, could be and was being used by some governments to hide rather than reveal information. Data need to be disaggregated, or open to disaggregation, to be valuable: it would therefore be a mistake, in his view, to see publication of information alone as necessarily enhancing transparency.

Another informant commented that it was the speed with which information could now be spread that caused consternation on the part of governments. Governments, he thought, often reacted by restricting access to information as a defensive reflex, without necessarily thinking about why they were doing so. If true, this suggests that the process of adjustment to the internet might lead to greater openness over time, at least in countries which have more open political structures, as bureaucratic cultures adapt to new conditions.

The internet was seen by respondents as offering new ways for rights organisations and activists to obtain, analyse and publish information. Crowdsourcing, using mobile applications or the internet, is one way of accumulating information on the behaviour of government officials. Data-

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seventeenth century.

mining and 'data-scraping', using computers for analysis of data derived from online sources, is also proving valuable.

Other participants in the study raised the relationship between freedom of information, access to content, and content controls including censorship – issues which are more often discussed within a 'freedom of expression' framework, but which are clearly also concerned with access to information. These issues are not straightforward. One informant referred to tensions within the women's movement between those who regard sexual content as exploitative and those who regard it as self-expression. There was a perception, shared by several informants, that, as one put it, 'much of the internet is about the sex industry.' This complicated matters for rights advocates working in culturally conservative contexts (particularly Islamic countries), where (one informant argued) the internet was often portrayed by the authorities and by social conservatives as a Western tool which undermined cultural values rather than a source of benefit to vulnerable communities. Part of the reality which rights and internet advocates must deal with, she added, was that, in many countries, many people feel that cultural censorship is necessary and appropriate, irrespective of how it is interpreted elsewhere – and that this includes many of the young (indeed, in some countries, the young may be more culturally conservative than older people). Informants also pointed out that issues of content should not be seen as being purely concerned with political rights. Conservative restrictions on content could harm rights within CEDAW and the CRC by denying women and children access to information on, for example, contraception or homosexuality.

Intellectual property (IP) is another challenging issue in this field. Within the UDHR, the Article 19 right 'to seek, receive and impart information and ideas through any medium' stands alongside Article 27, which both asserts a right 'to enjoy the arts and to share in scientific advancement and its benefits' (Article 27(1)) and gives authors a right of intellectual property ('the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production', Article 27(2)). Internet rights groups have strongly advocated relaxations of intellectual property agreements and the use of more open IP standards. The internet has also enabled individuals (and online businesses) to bypass intellectual property laws, bringing into question the viability of the legal framework for IP. Some internet activists advocate and promote breach of IP laws as, in effect, an act of civil disobedience. Several informants for this study commented on the internet's disruption of established norms in this area, though none identified it as a priority in their work.

#### ***iv. Privacy, surveillance and related issues***

As well as increasing the amount of information that is available to people, the internet has increased information that is available about them. This is not just an internet phenomenon, but, as several informants emphasised, relates to the wider digitalisation of society and economy. Extensive personal information about individuals in industrial countries and, increasingly, in developing countries, is held by governments, businesses and other individuals in databases which, being digital, are much more easily replicated and distributed than paper systems. Communications which take place using digital networks – mobile and fixed telephones, electronic mail and, especially, social networks – leave records which can be tracked in ways that were impossible in the pre-digital age. Mobile devices also allow the geographic tracking of individuals' movements. Businesses, as several informants pointed out, have developed new business models

based on data-mining which establish a different relationship between them and their customers – both end-users and the advertisers on whom they depend for revenue.

All told, these impacts amount to what one informant referred to as 'massive changes' in the privacy field. Another described privacy as 'a very threatened right in the digital environment.' A third referred to a 'treasure trove' of information about individuals and their behaviour which was not previously available to governments and businesses. Children were considered particularly vulnerable to loss of privacy because they have not gained sufficient experience to control their release of information effectively.

The implications of this threat to privacy were considered of high importance by most interviewees. Some felt strongly that the positive impact of the internet on freedoms of expression and association had to be juxtaposed against its negative impact on privacy. One informant expressed disappointment that privacy had been enabled in far fewer ways than had initially been hoped by some activists. The internet had enabled people to gain greater access to information held by others about themselves, through a mixture of technology and freedom of information regulation, but relatively few had taken advantage of this. Encryption and anonymity had proved hard to implement in practice and not achieved wide currency where individual data are concerned. At the same time, however, the internet had opened up new ways in which privacy could be invaded and personal information used against the interests or without the knowledge of those concerned.

One informant summarised the challenges concerning privacy as essentially twofold:

- Firstly, the relationship which people have had with privacy has changed and is changing as a result of the much greater opportunity which they have to share data and thereby interact with wider groups of people (which they welcome) and of the opportunity for governments and businesses to provide more tailored services with more efficiency (which they find convenient). People are less conscious of the threats to privacy associated with these exciting opportunities, less cautious and less protective of their data than they should be.
- Secondly, on a purely practical level, it has been and is becoming much more difficult for people and organisations to protect information because of the nature of digitalisation and the capacity of the internet to share data, whether or not those concerned wish it to be shared.

Several informants stressed that the first of these points implies the need for both citizens and human rights organisations to rethink the meaning of privacy for the digital age – in the case of citizens, particularly, to protect themselves more securely against risk (which at present they fail sufficiently to see or fear). Privacy cannot be protected by governments and businesses alone: it also requires people to become more careful about and with the information that they share. People need to take more precautions with their own information, one informant put it, as well as expecting others (such as governments, businesses and other individuals) to treat their information with respect. Social networking was perceived by informants as an especial challenge here because lack/breach of privacy on these affects not only individuals themselves but also their associates and wider networks.

Two consequential issues were raised in interviewees' comments. The first concerns the ability of governments and private companies to use online records as a way of tracking behaviour, including behaviour both online and offline. In the past, as one informant put it, the secret police would need to invade your property or arrest and interrogate you in order to follow your behaviour or

identify your associates; now all they need to do is look at your Facebook page. This perception was echoed, less colourfully, by others.

At the same time, one informant stressed, it was important to recognise the complexity of security issues, not least because Article 3 of the UDHR obliges governments to protect the security of their citizens. Although many users behave incautiously with personal information on the internet, security concerns are identified by many as inhibiting factors in the development, for example, of electronic banking and e-commerce. People are also anxious about risks to their security which are addressed by law enforcement and security agencies, including vulnerability to organised crime. Part of the need to rethink privacy for the internet age, one informant thought, was the need to recognise that 'what some see as privacy [violation], others see as necessary action against criminal activity.' While most people wish to protect their privacy, they also want to be secure against crime and other threats: this is a complex, not a binary issue.

As with access to information, the role of private companies is an important factor here. Private sector companies rather than government agencies are the principal controllers of information. As with content management, therefore, government agencies seek to use them to supply information, including information held on users, which would normally be considered private. As several informants noted, however, this is contrary to the normal rule of law: private sector companies are not equipped to be law enforcement agencies, are not subject to the principles of accountability that would normally apply to these, and so should not be asked, let alone required, to play these roles. That they may be asked to do so changes the relationship between companies and their end-users. However, one informant noted, some companies have also proved resistant to government requests in this area, seeking to protect customer privacy rather than cooperating with requirements they consider unreasonable. There is scope for and potential value in dialogue between human rights organisations and private businesses in this context.

The second issue concerns relationships between individuals, including violations of individuals' rights – such as the right to privacy or protection against defamation – by other individuals. One informant described this as a 'huge area', which privacy specialists were finding it difficult to address. A number of informants were anxious that harms resulting from individual abuse should be seriously addressed, but addressed in ways that do not have a chilling effect on freedom of expression, or reverse the gains in freedom of expression that the internet has brought. They were generally hostile to ex ante content regulation (prohibitions or censorship), while also recognising that there are contexts in which victims of abuse cannot obtain meaningful redress after the fact. This conundrum was most significant in relation to the rights of children to protection against abuse and exploitation, to rights of privacy (for example, concerning information about sexuality) where exposure or publication of information places individuals' security or livelihoods at risk, and in cases of malicious falsehood or harassment. This is discussed further in section 2C.

The comments of one informant on the issue of defamation are worth noting at more length. He felt that protection of defamation was an important right, which was substantially threatened by the internet, partly because of anonymity, partly because the internet made it easy for defamatory content to spread much more rapidly and widely than before (e.g. to 'go viral'). On the other hand, he felt, user-generated fora could be seen as the equivalent of 'public squares', where it would be damaging to apply conventional anti-defamation principles in the same way as they would apply to mainstream media. There was, he argued, a public interest in balancing these two rights. It would be difficult to protect the right of protection against defamation in this context, but that was a

challenge that should be addressed without abandoning an established right. It should not be seen as a binary contest between two rights or sets of principles.

One of the reasons why the issue of individuals controlling information about other individuals may be difficult to address, according to one informant, is that people are still working out how to adjust personal and other relationships – where access to information about one another is of central importance – in the digital age. Individuals now hold much more information about one another than they did previously, and have more opportunities to make that information available to third parties (for example through their Facebook pages). Norms governing these new aspects of relationships are in flux. However, this informant did expect that people would adjust their behaviour over time. In his view, the problem was therefore more likely to be temporary than permanent.

## ***v. Access to the internet***

Access to the internet is a major preoccupation of internet rights organisations. APC, for example, puts 'internet access for all' at the start of its Internet Rights Charter, associating it with article 26 of the UDHR (the right to education) (though Article 2, which is concerned with equality of rights, is also relevant). Others have rooted calls for internet access to be regarded as a human right in Article 19, which includes 'the right ... to seek, receive and impart information and ideas through any media and regardless of frontiers' (added emphasis). The internet is here being considered as a relevant medium, though one that has become available only since the UDHR and other human rights instruments had been agreed. Access is a main subject of discussion in the Internet Governance Forum, and in fora such as its Dynamic Coalition on Internet Rights and Principles.

Access in this context has two dimensions. Much of the discussion about access, and enabling access, in the internet community is concerned with infrastructure and affordability. For some rights organisations, however, social dimensions of access are more important – for example, the relative exclusion of women and girls from access to devices which offer internet access within the home or in shared access points such as schools.

Even where infrastructure is concerned, the rights dimension of access is not clear-cut. Internet access, like telecommunications access, can only be realised gradually and progressively, in the manner of social and economic rights, and so is more difficult to extrapolate from civil and political rights such as those in Articles 2 and 19. The recent New York Times article by Vint Cerf discussed in Section 1,<sup>13</sup> which was cited by several informants, argues that the internet, as a technology, should not be considered a right in itself but an enabler of rights. One informant made a similar point in distinguishing between rights themselves and technologies which can be seen as 'vehicles' for rights. As indicated in Section 1, another issue here concerns the temporary and evolving nature of technologies such as the internet: whether something which is relatively new, rapidly changing and open to displacement by successor technologies in the relatively near future should be considered equivalent to (say) 'food', 'health' or 'education' in the human rights regime. A third issue concerns whether the internet can be considered qualitatively different from other enabling technologies which have been subject to universal access legislation but not generally considered human rights, such as telephony and electric power.

'Access to the internet' was not generally raised by informants as a priority issue for them during discussions for this study, perhaps because their primary focus is on addressing violations of rights

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<sup>13</sup> See footnote 6.

within their own specific mandates rather than extending rights in other areas (see section 2D). Nor was the absence of access raised by them as a violation of human rights in the way that it is sometimes discussed within the internet community, though it was seen as a constraint on the exercise of rights, for example, by those living in remoter areas or in marginal communities. Access to the internet was generally regarded by informants as an important enabler of human rights, and therefore both highly desirable and appropriate for government intervention. One informant summarised what seems to have been a common view as follows: 'We could argue that internet access is essential in today's world, but I wouldn't call it a right in and of itself.' Another called it a precondition for participating in community life which, she felt, made it a 'public' rather than a human right. Several noted that this was also the view taken in UN Special Rapporteur Frank La Rue's recent report on the internet and freedom of expression.

### **C) Perceptions of how the internet affects the human rights regime in general**

Section 2B of the report was concerned with perceptions of the internet's impact on specific rights. This section is concerned with perceptions of its impact on the rights regime in general: does it change the nature of human rights, the ability of citizens to exercise rights or of others to violate them, or the relationship between rights which is articulated in the Bill of Rights and other international human rights instruments?

#### ***i. The nature of human rights and the adequacy of the international human rights regime***

During the first phase of the World Summit on the Information Society (2001-2003), there was intense debate between some (primarily) internet and ICT civil society groups in the Communication Rights in the Information Society (CRIS) campaign, which initially argued for changes in the international human rights regime to accommodate a new right or rights to communicate, and other rights specialists (especially the freedom of expression organisation Article 19), which argued that revisions to the human rights regime were both unnecessary (as all relevant rights were included in the existing instruments) and dangerous (in opening the door to wider changes in the international regime which would be detrimental to human rights in general).

None of the informants for this study felt that the international human rights regime should be or needed to be amended in order to accommodate the internet. There has always been some new development in telecommunications, one of them summarised the issue: the internet is just the latest of these; it doesn't necessarily change the world, or the fundamentals of the rights regime. We need to focus on implementing the existing corpus of rights, he added, rather than creating new rights. Others agreed that the legal underpinnings of human rights have not been altered by the internet.

This was a strong and widely-held view throughout the interviews. Only one informant suggested any need to change international human rights instruments, but she was concerned primarily with how they work in practice rather than with what they say – in particular with the need to ensure that rights instruments have consent and are 'something with which states will comply.' As at WSIS, there was also anxiety about the risks of opening up the international rights regime, which some informants felt would lead to fruitless argument and a potential diminution of human rights which are currently established.

This “conservative” approach to established international human rights instruments does not mean, however, that informants did not see a need for interpretation of existing rights instruments to be developed to accommodate the internet. On the contrary, informants in general considered reinterpretation of human rights instruments for the internet age to be both necessary and important. One summarised this by saying that ‘the actual right to communicate is already enshrined in law’, but there is a need for better understanding of how it is to be applied online, citing three challenges in particular:

- understanding privacy online;
- recognising that assembly has online implications; and
- understanding what compliance means online.

Another suggested that the best way to look at this question would be to ask what the authors of the UDHR or other rights instruments (including national instruments like the US constitution) would have thought or written about the principles they adumbrated had they been formulating their texts in today’s digital environment. Jurisprudence – national and international – offers guidance to how this has worked to date.

The background to the need for reinterpretation, as described by informants, is rooted in three factors:

- changes in citizens’ engagement with and capacity to exercise rights;
- changes in the relationship between the state, citizen and other actors where rights are concerned; and
- changes in the relationship between specific rights within the human rights regime.

Perceptions of these are discussed in turn in the following paragraphs.

## ***ii. The ability to exercise rights***

The increased ability of citizens to exercise rights arises most clearly in terms of Article 19 and Article 20 rights (freedom of expression and association), as discussed in section 2B above. This was neatly summarised by one informant as the internet making a difference by enabling ‘a more engaged citizenry.’ It arises from two main factors:

- the greater range of opportunities which the internet has created for citizens to gain and share content, publish views and coordinate activities; and
- the greater ease which the internet affords them to bypass constraints imposed by law and/or social norms.

There was a sense of three underlying issues which need to be drawn into thinking about the implications of the exercise of rights in national rights regimes. These are:

- that the internet allows users to do more easily both things which are lawful or which governments wish to promote (e.g. accessing educational information, engaging in e-commerce and with e-government) and things which are unlawful or which governments wish to discourage (e.g. bypassing legal and normative constraints on pornography or ignoring intellectual property rules);
- that what is and what is not lawful or acceptable in terms of social norms varies substantially between nation-states (while the internet is a global phenomenon); and

- that the internet redraws the boundary lines between some rights within the international human rights regime (notably between freedom of expression, on the one hand, and the rights of privacy, protection from defamation, and intellectual property on the other).

This last point reiterates the observation that, while the internet has substantially increased the ability to exercise freedom of expression and association, it has made it more difficult to exercise rights of privacy, and easier for a variety of actors (including individuals and businesses as well as governments) to violate them.

### ***iii. The relationship between the state, citizens and other actors***

Perceptions of the relationship between the state, citizens and other actors arising from the internet were more complex.

It is evident that, in societies where control rather than participation is the norm, the extension of freedom of expression and association enabled by the internet is likely to bring about a reaction from governments seeking to constrain it and so retain established levels of control. The personnel from human rights organisations interviewed for the study saw this happening in a range of new interventions by governments which could be described as new violations. These include measures such as the blocking and filtering of internet content, the arrest of journalists and others for blog postings, and the tracking of online behaviour and online networks. These are violations which could not occur before the internet because the actions which they control are specific to the internet.

None of those interviewed seemed to feel that their organisations had yet developed a clear analysis of the balance between the increased ability of citizens to exercise rights to information, expression and association on the one hand, and increased interventions by governments to control the exercise of these rights. In particular, none of their organisations seemed to have analysed the net outcome resulting from these linked factors (i.e. an answer to the question: has the existence and use of the internet, which has enabled the further exercise of rights on the one hand and led to new controls on the exercise of rights on the other, led to a net gain or loss in the overall ability to exercise the rights concerned?). There was a general feeling that this net outcome had been positive to date, but that did not necessarily imply that it would always be so. This is an important question, particularly for freedom of expression and association, and it would help to assess the internet's impact if an appropriate analytical framework could be designed.

The second major area of comment by informants concerned the relationship between human rights and law enforcement, on the one hand, and human rights and state control on the other. Several informants emphasised the complexity arising here. The core of the problem, as expressed by one informant, is that there are legitimate law enforcement imperatives online, as well as legitimate human rights imperatives – and that there results from this 'a huge tension' between the protection of human rights and the enforcement of criminal law, both of which can/should be seen as purposes of government. Additionally, as another informant described it, the instruments which are available for the enforcement of criminal law online are the same instruments as those which can be used for the suppression of dissent – which was not (or not nearly so much) the case with law enforcement offline or before the internet. The human rights regime, this informant argued, is intended to protect rights, not criminal acts. As the same instruments can be deployed against either, it is necessary to differentiate the use of those instruments according to the purpose or motives involved.

Although (surprisingly) these was not raised explicitly by informants, this is related to the obligations to enable and enforce human rights, and to protect citizens against violations, which are imposed on governments by the international rights regime. The requirement to protect citizens against threats to life, liberty and security, which follows from Article 3 of the UDHR, is used by governments to justify interventions concerned with both state security (including monitoring and surveillance of online behaviour and networks) and criminal activity (including internet fraud). If governments are to protect citizens against violations of their human rights, they have to use legal instruments to do so. Government intervention in the rights arena, in other words, is complex and can both protect and violate rights.

Another issue raised by several informants was the role of the private sector. Concern was expressed at attempts by governments to use private companies as proxies in the enforcement of content controls, including, for example, intellectual property rights and political censorship, and as sources of information about citizens' behaviour and associations. The private sector-led model of innovation and service provision that characterises the internet differs markedly from the government-led model that characterised telecommunications. Informants were concerned as a matter of principle that companies should not be enforcing laws on behalf of governments. As private companies become more important in determining how communications systems work, one informant said, 'you need to pay as much attention to companies as to governments' – and to 'the combination of government policy and private sector innovation.' The additional burden of monitoring companies was seen as a challenge for hard-pressed human rights defenders.

#### ***iv. The relationships between specific rights***

The relationships between different specific rights within the international regime are influenced by two features of that regime:

- Firstly, there are overlapping and potentially frictional boundaries between rights – most obviously between freedom of expression (Article 19 of the UDHR) and some of the protections afforded by other articles in the International Bill of Human Rights which are concerned with privacy, protection against defamation, authorial rights and the right to fair trial. There are also overlapping and potentially frictional boundaries between articles in the International Bill of Human Rights and those in other human rights instruments such as the CRC (concerning the information rights of children and their protection from abuse) and ICERD (prohibiting certain kinds of 'hate speech').
- Secondly, all of the core human rights instruments include clauses which limit the effectiveness of specific rights within them. In the UDHR, these limitations are set out in Articles 29 and 30, 'for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.'

These limits to the exercise of human rights were the subject of a great deal of debate and jurisprudence long before the internet became publicly available in the 1980s, so it is not surprising that they continue to be contentious in the internet age. An important question in this context (see Section 1) concerns how the human rights regime as a whole is seen – whether as a package of interacting rights, or as a list of rights which can be assessed and promoted separately, regardless of their impact on other rights.

The relationships between rights are therefore challenging for organisations concerned with human rights. Most informants regarded the International Bill of Human Rights as having established a balance between rights where these intersect. One described balancing rights as a core attribute of the human rights regime, for example; another as the core issue in interpreting rights in real world contexts. However, the implications of the ensuing 'balance' are open to interpretation. One informant described privacy and freedom of expression in this context as 'fundamental rights, not absolute rights,' whose positive impacts have to be weighed against potential harms (not least to other rights). He meant by this that freedom of expression could be used as a way of facilitating the achievement of other rights within the human rights regime. This did not make it a 'superior' right, but gave it added significance in the rights regime overall. As well as facilitating gains in other human rights, it could also facilitate harms in other areas of the rights regime, which should also be taken into account.

Most informants were comfortable with or preferred the word 'balance' to describe relationships between rights. One informant diverged from this more general view, however, rejecting the concept of 'balance' and preferring a different way of describing the relationship – that each right within the human rights regime should be seen as a baseline of minimum standards below which treatment should not fall, implying that rights advocates should seek to enable each right to be realised as fully as possible, while recognising that none is without limits, including their relationship with other human rights. This might be linked to the notion of indivisibility amongst the rights within the international regime.

An important issue raised here by several informants concerned the rule of law, which should clarify the terms on which governments and law enforcement agencies can investigate or intervene. Search of computers or internet records under warrant, for example, would be within and subject to the rule of law (and so legitimate) in ways that hacking into them would not. Issues concerned with content filtering or blocking, informants suggested, need to be considered in the context of the rule of law – for example, legal rules restrict the marketing of pharmaceuticals (and other goods such as firearms) offline; are there ways to bring online sales of the same goods comparably within the rule of law?

Child protection has been a particular area of disagreement over the balance of rights, between some child protection agencies and some internet and internet rights activists. One informant in particular found this frustrating, because she felt that children's rights on the internet were only being discussed in terms of child abuse/protection, rather than the full range of rights set out in the CRC, including children's rights to access information (and by implication that available through the internet), and to express themselves (including to express themselves online). Too much attention, in this informant's view, was being paid to child pornography, and too much heat was being generated by arguments around it.

Many child protection advocates, however, feel that internet activists pay too little attention to harm that may be done to children – and are unwilling to look beyond freedom of expression to the rights of the child, including those set out in the CRC and children's rights to privacy (which would be violated by images of abuse from which a child can be identified). This is an area that a good number of informants for this study felt would benefit from less dogma, and from more dialogue and understanding of different rights perspectives.

As noted above, informants clearly felt it important to address relationships between rights like this without violating freedom of expression. The principal challenge, as put by one informant, was

that restrictions on the internet that can be used to curb criminal activity are the same as those that can be used to curb freedom of expression, i.e they can be used for both legitimate and illegitimate purposes. Because of public anxiety about some abuses on the internet, particularly child pornography, governments are in a difficult public policy position. Some respond by erring on the side of censorship, which is troubling for rights protection.

Anonymity on the internet can exacerbate this problem. One informant stressed that anonymity works both ways, enabling or facilitating harms (such as bullying, sexual harassment and incitement to violence) as well as benefits (such as political organisation in contexts of repression). The difference between these is generally contextual, and dependent on the use to which anonymity is put: it cannot easily be addressed, therefore, by a single statement of principle about anonymity itself.

Informants felt that there should be ways of addressing abuses within the human rights framework without infringing freedom of expression, but the complexities around these need to be thought through –: for example there needs to be better understanding of the limitations in Articles 29 and 30 of the UDHR – in order to reach ways forward. There is clearly scope here for more dialogue.

Finally, one informant suggested that guidelines might assist the interpretation of human rights instruments. Such guidelines could cover a variety of harms, including cyber-attacks, the protection of personal information and the prevention of content blocking as well as harms against individuals. She felt that this should be addressed by the international community, and suggested that European experience might be particularly valuable because of the extent to which human rights are addressed in European constitutions and jurisprudence.

#### ***D) Perceptions of how the internet affects rights organisations***

The internet and internet rights are not the first priority of mainstream rights organisations. Their work is focused strongly on their own specific mandates in their own rights fields – monitoring and publicising rights and violations, dealing with individual casework, and addressing issues with governments and UN/intergovernmental agencies. As NGOs with limited resources, the pressure of work is generally intense. Human rights organisations, as one informant put it, try to do everything and sometimes find it difficult to prioritise between different pressing needs or even focus within their own core mandates. Work is often reactive and frequently crisis-led, with too little time available to analyse new developments like the internet and their potential impact.

Two sets of priorities, of different kinds were identified in interviews.

Firstly, work for many rights organisations is led by issues of the moment such as, in 2011, the 'Arab Spring'. While an emphasis on immediate issues such as this concentrates resources where there are critical challenges to and opportunities for rights interventions, it can also imply a shift in focus away from geographical areas (such as the Balkans) which might need longer-term attention, and from broader global themes concerned with the changing nature of rights intervention (such as the internet). One informant said that donors' short-term funding priorities tend to exacerbate this problem. There were, however, also lessons that could be learnt from the role which mobile telephony and the internet have played in recent 'crises' such as the Arab Spring and the 2007 political violence in Kenya.

Secondly, a number of informants identified making changes in their organisations' ways of working as priorities, including outreach to wider audiences, communicating with 'ordinary people'

rather than just governments and rights specialists, and building the capacity of national chapters/members/partners. The internet can play a significant role in addressing all of these.

The only organisations reviewed for this study that gave significant priority to internet rights issues within their work were those that are primarily concerned with freedom of expression. For these, as described above, the internet is significantly changing the nature, opportunities and challenges to exercising rights within their own core mandate. This makes it more central to their work than it is to organisations whose core mandate is less directly impacted such as those concerned with women's, children's or minority rights.

Informants described three main ways in which they use the internet to further their organisational, advocacy and campaign objectives:

- in information, evidence gathering and enforcement of human rights;
- in outreach and dissemination of information, and as a means for advocacy and campaign work; and
- for internal communications and organisation.

These are discussed in turn below.

### ***i. Information and evidence gathering***

Most informants saw the internet as enabling human rights organisations to investigate and transmit information, thereby hold governments to account, and do so much more quickly – indeed, almost instantaneously. This was particularly relevant to observing and reporting violations in times of crisis. As well as expediting the dissemination of evidence, new media (mobiles, internet and mobile internet) have increased the range of sources of evidence and the kind and quality of evidence which can be disseminated. Video evidence, captured on smartphones, is a particularly significant new form of evidence which can be used to hold governments to account. Tweeting (in real time) was also seen as a useful contribution to evidence-gathering, though dependent on the accuracy and integrity of the source: partisan tweets have less evidential value than written transcripts.

There is, as this suggests, a corollary to informants' enthusiasm for new media as information sources, which was emphasised by several informants. This concerns the importance to human rights organisations of being able to authenticate the evidence which they use in their campaigning and advocacy work. Failures by rights organisations to authenticate evidence which subsequently proved false had clearly scarred more than one informant. As a result, several emphasised, such organisations need to be cautious about the information that they use. Violations, in particular, need to be validated. Responsible human rights organisations cannot simply repeat 'the gossip that appears on social networking sites,' or unsubstantiated blog entries. They are therefore interested in looking at ways in which the internet could be used to facilitate the triangulation or cross-authentication of evidence. The Wikipedia model was one example cited (though imperfect).

One informant mentioned challenges which had been raised for his organisation by the release of illegally obtained sources such as unredacted material published by Wikileaks. His organisation had chosen not to make use of this material, but been criticised (and challenged) by other civil society organisations as a result (perhaps as part of a contest for kudos and support between them). The reasons behind its decision included the absence of verification, the risk to people identified in unredacted documents, and the legal status of the documents concerned. Because mainstream

human rights organisations use legal instruments to enforce rights, they have an interest in maintaining the rule of law.

One informant emphasised the importance of the internet as a research tool for human rights work in developing countries where it is often difficult to get hold of paper copies of critical documentation, including legislation and international rights standards. The fact that these are available online makes it possible, not merely easier, for organisations in developing countries to do their work in defence of human rights and individuals.

## ***ii. Outreach, advocacy, campaigning and enforcement***

The internet is seen to have increased the capacity of human rights organisations to reach out to more diverse audiences – not just to governments, rights specialists and activists, as was the case in the past, but to the private sector (which informants saw as increasingly implicated in rights issues) and to the wider public. Greater outreach enables human rights organisations to engage in more extensive advocacy work (and to advocate for rights within more target groups). However, one informant said that her organisation had tended to use the internet to reach out to those who already shared its views; it had been much less successful in using it to reach out to policymakers and other influential forces in society, who were not already supportive of its work. For her organisation, face-to-face lobbying and advocacy were more effective means of influencing opinion where it was likely to make a difference, for example among legislators, and therefore took priority. She also felt that outreach to the general public through the internet had been more successful in the global North, partly but only partly because of the lower level of internet access in the South. Interestingly, she observed that the internet did not seem to have brought a new generation of activists into the groups networked by her organisation: on the contrary, she suggested, the next generation seemed to be too busy doing things online to get involved in activism.

As well as extending reach, the internet is seen as enabling human rights organisations to respond much more quickly to rights abuses. It helps them to organise reactive campaigns more quickly and effectively than before, and to generate support in individual cases.

Some rights organisations have moved to the internet as the principal publishing medium for their own reports and other material, rather than making these available in hard copy. Newsletters have been replaced in some cases by electronic bulletin boards. Digitalisation makes dissemination cheaper and enables wider, automated distribution. However, these opportunities are not always being used effectively. Informants from one organisation, for example, noted that it used its website as a campaigning tool, but did not make corporate information available through it (more as a result of inertia than intent).

Advocacy and campaigning are concerned with raising awareness and collective action to oppose or protest against rights violations. Human rights organisations are not, however, merely campaign organisations; they also use publicity, laws and legal processes to enforce human rights and redress rights violations. As one informant put it, their enforcement activity is built around 'naming and shaming'. The additional evidence which the internet enables (see above) has added significantly to their capacity to 'name and shame', as well as to the evidence which they can produce in court.

A couple of informants said that their organisations had turned what had been conventional media operations (using press releases etc.) into 'alternative voices newsrooms', acting as portals or

windows for material generated by their partners, network members and activists. This enabled those partners to present their own voices to global media in ways that were not previously possible.

Experience with social media was mixed. One informant reported using it extensively to monitor events and maintain contact with partners and activists during the Arab Spring. Another recognised that her organisation was not using social media effectively – that it was using it as a dissemination tool, rather like its website, rather than as a tool for sourcing information. This reflected a lack of strategic thought given to the opportunities presented by social media, which is probably quite common. Some informants were also concerned about the confidentiality of information shared on social networking sites, particularly their vulnerability to monitoring by government agencies, and so reluctant to commit resources and communications channels to them.

### ***iii. Internal organisation***

The internet is widely used by rights networks as a medium for communications between members/chapters in different countries. Experience of this is mixed. Several interviewees said that it had enabled considerable improvements in coordination and, more generally, in their organisations' ability to progress their work. These informants emphasised the ability of the internet to expedite communications and to distribute internal documentation, especially large documents. One informant referred to it as the 'foundation' of the organisational information chain, dating this as far back as the use of mailing lists a decade ago. It could enable a small core staff to manage an effective networked hub and build much stronger relationships with member-organisations.

Use of the internet has not always been effective. Some organisations have found it difficult to adjust their working methods and to integrate the internet effectively with established ways of doing things. One informant described her organisation as 'not a very tech-savvy organisation,' and as conservative in its use of networking technologies, keen to ensure that it did not jettison tried-and-trusted ways of doing things. This was especially so where there were concerns about confidentiality, for example with social networks, or uncertainty about whether communications were being monitored by government agencies. She felt that it was sensible for rights organisations to assume that at least some monitoring was likely to be taking place in many countries, but also that rights organisations were technically very ill-equipped to judge whether this was so in fact.

Anxiety about surveillance was not the only problem, however. Another interviewee said that it had been 'a great struggle ... to use the internet properly for internal communications purposes.' His organisation had commissioned an over-complex system which failed to meet its real needs, wasting time and resources and reducing the confidence of its national partners in the internet as an operational medium. A number of informants described difficulties in using the internet as a medium for coordinating work among chapters/members from diverse countries. These related partly to the quality of internet infrastructure but also to differences in culture.

Technical limitations, especially the quality of access in different countries, evidently make it difficult to use Voice over IP applications such as Skype for internal meetings with even a handful of participants. Paid-for alternatives were considered preferable to generic VoIP applications by at least one organisation, at least for voice communications. Another informant, who was generally

very positive about the organisational value of the internet, said that it was important for organisations not to make assumptions about access or capacity, but to build internet use in ways that included the least technically equipped of their national partners.

Two main challenges were identified from a cultural point of view.

The first concerned different attitudes towards working with the internet and dialogue online. One informant reported that many of his organisation's national partners were reluctant to use its corporate intranet, with participants from some developing regions much less likely to intervene in online discussions than they were in face-to-face meetings. This was a problem even with very senior personnel, but less so with younger professionals. He felt that investment to train people in how to make effective use of the internet was important but often overlooked by NGOs.

Several informants questioned the assumption that doing things on the internet was necessarily preferable. A couple, for example, noted that email was not as effective as the telephone because it slowed the pace of dialogue between organisations that need to work together and reduced the quality of personal contact between their staff.

#### ***iv. Other challenges***

One or two informants raised concerns about the internet being used against their organisations. One agency complained, for instance, that its entry on a major online reference site had been maliciously altered to imply that it was not a genuine NGO but was subordinate to government or business interests. It had been challenged when seeking to reverse these alterations, which had caused significant problems, as it was seen as partisan when it sought to do so. This was a reminder that anonymous content on the Web can harm as well as support human rights organisations in their work. (Some governments are also known to employ staff and freelance personnel to blog against rights activists and in favour of government policies and practices.)

The principal difficulty with maximising the value of the internet to human rights organisations which was raised by informants was lack of resources. One described human rights groups as 'critically under-resourced' in this area. Quite a few informants referred to lack of time available within rights organisations to develop strategic approaches to using the internet: in most cases, use of the internet had, so far, been opportunistic rather than strategic in character.

Another more general challenge mentioned by some informants concerned the difficulty of managing an organisation's internet use. At least one informant was concerned about dependence on the internet: how the organisation would be able to function if, for whatever reason, the internet became unavailable to it (something which is most likely to happen at a time of crisis). More generally, informants were concerned about the difficulty which their organisations have in keeping up to date with technical developments and opportunities.

On the other hand, interviewees from one agency described what they called 'digital transformation' as a priority in its work today – meaning by this making its own activities 'more tech-savvy', presenting information digitally, 'integrating digital into traditional human rights areas' – though this was a priority whose importance had only recently become apparent to them (and which had not been recognised when their organisation's last strategic plan was agreed in 2009).

It might help if human rights organisations discussed the internet and their objectives concerning it more frequently amongst themselves. One informant noted that the internet is usually mentioned when future challenges are being discussed among peer organisations at international

level, but that it never progresses far up the agenda. If human rights organisations are to influence the relationship between the internet and rights in future, they need to discuss their priorities amongst themselves.

#### ***v. Perceptions of relations between human rights and internet civil society organisations***

There was no obvious consensus about the meaning of 'internet rights' among informants, few of whom seemed to have thought systematically about the term. One described it as 'not a particularly meaningful term' in relation to his organisation's concerns. Another asked with genuine curiosity: 'is there a framework for [internet rights] that people have already worked out?' When asked what they thought 'internet rights' might mean, informants usually referred to the application of UDHR rights within an internet context, perhaps including internet access and education as well as expression, association and privacy. None referred unprompted to the technical issues of internet governance which appear, for example, in the second half of APC's Internet Rights Charter – issues such as net neutrality, open standards, open source, encryption or multistakeholder participation. These preoccupations of the internet community had not penetrated into the consciousness of most informants and were not, when raised, perceived as being particularly relevant to their concerns.

Informants recognised that there was little real discussion between mainstream human rights organisations and the internet community. Human rights organisations do not have the time or resources, they indicated, to get involved in internet policy issues, and these are not seen as priorities by their managements. They are too busy reacting to what is happening in their primary areas of concern – 'firefighting' live cases of rights violations, in the words of one informant.

It is clear that many rights and other civil society organisations have not spent much time analysing the impact of the internet on their primary concerns and lack a strategic sense of the impact, opportunities or challenges that the internet presents to them. Their response to the internet seems more reactive than proactive, more tactical than strategic. The internet is seen first and foremost as a tool which they use to further their organisations' own objectives. Some informants recognised that there was a need for them to 'come out of their comfort zone' and address internet issues and opportunities more systematically but, for reasons described above, it was difficult for them to do so.

However, there was also a widespread sense that internet specialists are poorly informed about human rights issues, have limited understanding of (and interest in) the challenges facing human rights organisations, and make assumptions about internet access and user capacities which are unrealistic for those organisations' developing country partners. Some internet advocates are perceived to have a different, libertarian ethos, which is at odds with the roots of mainstream human rights organisations in legal institutions and processes. Informants were also wary of the suspicion within the internet of the United Nations, which plays a substantial part in the development and implementation of human rights agendas.

A good many informants therefore saw what could be described as a paradigm gap between mainstream rights and internet communities. Traditional human rights organisations, said one, see government as the enabler and defender of rights as well as having the potential to violate them. Internet rights advocates, he said, do not depend so much on governments as agents to defend rights on the internet, because the internet as a whole is less dependent on governments. This

may make internet advocates more flexible in their approach to rights, but it also makes it harder for them to understand the ways in which mainstream human rights organisations think and work. Several informants said that they felt the 'internet world' lacked perspective about the importance of the internet or the importance of proposals which internet advocates saw as violating 'fundamental principles' of the internet. One complained that 'internet people are too enamoured of the internet,' exaggerating the importance of internet-enabled applications, tending to embrace technology rather than rights, to use technology for its own sake rather than for the benefit that it could bring or than using alternative ways of doing things that have proved successful in the past and are felt to be more important and useful within human rights organisations. The 'technical community' tends to be supportive of human rights in general, commented one informant, but does not really understand them well because it has a 'different point of departure'. Internet rights advocates, another said, tend to forget human rights other than those that particularly interest them (freedoms of expression and association and rights of privacy) and to forget that human rights don't stop at the internet. There was, he felt, a cachet to working on internet rights which blinded them to the wider human rights agenda.

This, combined with lack of awareness and perceived relevance of 'internet principles' means that it may be difficult or even counterproductive for internet advocates to try to focus mainstream rights organisations' attention on issues which those organisations see as peripheral to their rights mandates. One or two informants hinted that attempts to co-opt them into internet arguments which were not priorities for them were likely to be resented.

One informant made some particularly interesting observations about the nature of the debates enabled by the impact of the internet on human rights. He was frustrated by the way in which he felt these were often reduced to ideological statements in both communities – especially the idea that something was 'in the human rights regime', or was 'a founding principle of the internet', and so there was no room for argument about it. On the contrary, he argued, the challenges which the internet raises in interpreting human rights provide an opportunity for the nature and implementation of those rights to be explored, which could lead to better understanding and better practice.

There was particular concern about issues of child protection at the interface between human rights and the internet. Several informants felt that polarised debates around specific issues, particularly child pornography, had alienated some rights communities from the internet community, and vice versa, when alternative approaches, based on greater understanding of both the internet and children's rights, could have enabled collaboration to protect the rights of children. There was also some sense here that some within the internet community were more concerned with the rights of adults than with the rights of children. These informants felt that harms to children, who are more vulnerable than adults, needed to be taken more seriously in the internet community.

One informant, commenting on this and other areas of conflict between rights, emphasised the importance of governments acting to protect the rights of citizens, including children – a responsibility which clearly stemmed from the international human rights regime. Technology, he felt, had made it more difficult for governments to achieve this outcome. However, it was not acceptable to regard the loss of protection and rights resulting from this as collateral damage that should or could be tolerated. That, he said, was 'not at all a human rights perspective.' The core principle should be one of balance, in particular determining whether the harm that something

does in terms of human rights is greater than the benefit it brings to them. This requires 'real world understanding' rather than the application of ideological principles.

The lack of engagement with internet policy issues in human rights organisations described above is also evident where civil society organisations in other fields such as development and the environment are concerned. The participation of mainstream civil society organisations in internet policy fora such as the Internet Governance Forum (IGF) is very limited, and much less than that found in other international policy domains. As a result, it is far from clear that civil society representation in these fora reflects the needs or views of mainstream civil society.

As one informant put it, human rights and technical groups concerned with the internet work very separately, and there is a need for dialogue to bridge the paradigm gap implied above. Human rights organisations, another suggested, are inherently conservative, intent on preserving rights that have been gained (while, it was implied, internet advocates are inherently innovative, more concerned with what is new and what can be done with what is new.) While human rights organisations need to learn more about the internet, internet advocates need to learn more about the realities of rights advocacy and campaigning work. Some informants saw improvements in dialogue now taking place, but felt there was a long way for this to go. One called for more internet organisations to follow APC's lead in bringing expertise from the mainstream human rights world into their core staff complement and decision-making processes.

### **Section 3 – Conclusions**

The potential impact of the internet on rights within the international human rights regime is explored in Section 1 of this study. Findings from that exploration can be summarised as follows.

- 1) The internet is having a significant effect increasing the ability to exercise rights recognised in Article 19 (freedom of expression) and Article 20 (freedom of association) of the UDHR.
- 2) It increases the ability of citizens to exercise Article 21 rights (participation in government) and freedom of information (extrapolated from Articles 19 and 21).
- 3) New ways of exercising freedom of expression and freedom of association through the internet also lead to new ways in which those rights can be infringed.
- 4) The internet raises a number of new challenges to Article 3 rights (security), including threats from cybercrime and from surveillance.
- 5) It has significant effects on the ability of individuals to protect Article 12a (privacy) rights against intrusion by governments, businesses and other individuals.
- 6) It makes it easier to infringe and harder to protect rights in Article 12(2) (protection against defamation), Article 26(2) (racial and religious tolerance), and Article 27(2) (authorial rights) (and also some rights which are articulated in CEDAW and CRC).
- 7) It affects the relationships/balances between rights, including those mentioned in point 6 and those encapsulated in Articles 29 and 30 of the UDHR (protection of the rights of others, and of 'morality, public order and ... general welfare') and in the Covenants.

- 8) The internet has potential impacts on the realisation of some social and economic rights, in particular Article 26 (education) and Article 27(1) (cultural participation and scientific advancement).
- 9) It has potential impact on aspects of the right to fair trial (Articles 10 and 11).
- 10) Issues of equity arising from the differential availability of the internet (internet access) arise from Article 2 (equality of rights) and in a number of other areas.

Perceptions of the internet, internet rights and the impact of the internet on human rights within mainstream human rights organisations are explored in Section 2, on the basis of desk research and interviews with personnel from such organisations. These perceptions can be summarised briefly as follows:

The internet is believed to have substantially extended the ability of citizens to exercise freedom of expression and freedom of association, and to have substantially threatened rights of privacy. It is seen as having raised new challenges concerning the relationship between the citizen and the state, privacy and surveillance, content controls, and the relationship between rights and responsibilities. The work of human rights organisations has been substantially affected by the internet, in terms of both caseload and working methods. However, they have had insufficient time and resources to devote to analysing the impact of the internet effectively or to maximising its value in their work. There has been relatively little contact between mainstream human rights organisations and the internet community, but the latter is felt to have limited understanding of the complexity of the rights regime and the priorities of human rights organisations.

The following paragraphs summarise perceptions from the interviews described in Section 2 in more detail:

- 1) The internet is understood within rights organisations to be having a significant positive impact on the ability of people to exercise certain rights within the international human rights regime, and the modalities through which those rights are exercised. This is most significant where freedom of expression, freedom of association and assembly, and freedom of information are concerned. New ways of exercising freedom of expression and association also (unsurprisingly) introduce new potential violations of these rights, which are of concern. However, the net effect of the internet on these rights is strongly positive.
- 2) The internet is understood within rights organisations to enable violations and infringements of rights as well as to enhance their exercise, and to have created new modalities for violations. This is particularly true of rights of privacy, which are seen as significantly threatened by the internet, because the internet greatly increases the scale of information held about individuals (by governments, businesses and other individuals), the ease and scope for sharing of that information, and the permanence of digital records. People have also failed to adapt their behaviour to these new parameters of privacy.
- 3) These changes in expression, association and privacy, together with other societal changes resulting from the internet, have disrupted historic understandings of the relationships or balances between some rights within the international human rights regime. This is particularly so where new forms of expression and new scope for expression have enabled violations of protective rights such as those concerned with security, defamation, hate speech, discrimination, and child protection. In some cases, these relationships or balances may be fundamentally reshaped. Interviewees were concerned that protective rights

should not be undermined by the greater ease with which other rights can now be exercised.

- 4) None of the personnel interviewed for the study believed that these changes were sufficient to require changes in the texts of international human rights instruments. The internet was seen, in this sense, as evolutionary rather than transformative – as changing the modalities through which human rights can be exercised or violated, rather than changing the nature of human rights as such. There was a strong presumption against changing the texts of established instruments, based on perceptions that fundamental rights are or should be (broadly speaking) immutable, and on fears that opening established international human rights documents to textual amendment would result in negative rights outcomes.
- 5) There was, nevertheless, a general sense that the impact of the internet requires reinterpretation of some human rights, to accommodate their exercise and address their violations in forms that are not obviously covered by the international human rights regime. Interviewees seemed confident that this could be done on the basis of established jurisprudence.
- 6) There was no definite consensus among interviewees as to whether access to the internet should be considered a human right per se. The general view was probably that the internet should be seen as an important enabler of human rights, which should therefore be advanced by governments as a constitutional right, but that access to the internet should not be regarded as a human right per se.
- 7) There was some concern about the extent to which society in general and individuals in particular are adjusting to the expansion of information and new forms of interactivity which are enabled by the internet. As well as concerns about privacy mentioned above, this includes concerns about the interpretation and validation of information sources (e.g. the ability to discriminate between reliable and unreliable sources) and about the style and quality of online debate (a more aggressive public space, in which people show less understanding of and respect for others' views). These concerns lie at the boundary between human rights and behavioural norms.
- 8) There was a good deal of comment about the role of the private sector in the internet. In particular, interviewees commented that the internet was predominantly provided (and therefore managed) by private sector companies rather than by government agencies, as a result of which government authority over the internet was much weaker, and governments sought to implement some of their objectives where the internet was concerned (including law enforcement) through private companies. This conflicts with normal understandings of the rule of law. Some companies were also seen to be protective of consumers' and citizens' rights against government intervention.
- 9) The emergence of new business models at the heart of the internet, based around the use of personal data for targeted advertising, was also seen as problematic, particularly for privacy. Some interviewees felt that human rights organisations were not well equipped to monitor business (rather than or as well as government) activity
- 10) One interesting observation, which others thought perceptive, was that, in the internet environment, the instruments available to all governments to pursue lawful objectives

(e.g. crime prevention) were more similar to those which some governments might use to suppress rights (e.g. political dissent) than were the instruments available to governments offline. This, it was suggested, caused confusion and raised problems for both governments and rights organisations; it required more attention to be paid to the purposes for which government actions were undertaken. It was seen as important that the evolving internet should enable both human rights and law enforcement.

- 11) The importance of the rule of law was emphasised within this context. It was seen as important to ensure that law enforcement activities online were subject to the same principles of law as offline enforcement (an example given was *ex ante* appeals against takedown procedures related to online content). This was not about the legitimacy of law enforcement, but about the methods used in order to ensure it.
- 12) There was a perception that, while individuals are in the process of adjusting to new contexts, they are doing so with varying success, not least because behaviour changes more slowly than technology. Some interviewees felt that citizens' difficulties here would be a temporary phenomenon; others that the continual change inherent in the internet would mean that it would be difficult for either citizens or governments (or for that matter rights organisations) to catch up.
- 13) There were many areas in which interviewees perceived common objectives and aspirations between human rights organisations and internet advocates, particularly in their enthusiasm for freedom of expression and association. However, significant differences were perceived in perspective and approach between the human rights and internet communities. At least some of those interviewed attributed these to differences of paradigm. The most significant concerned:
  - 1) The relative importance of the internet. Rights organisations are focused on their own mandates. From their perspective, the internet is one among a number of changes which are taking place in the context for the human rights regime, and not necessarily the most important. (The shift in global power towards the BRICs was considered highly significant.) Internet advocacy organisations, however, are primarily focused on the internet, and see it as having greater impact and potential. Some interviewees felt that internet advocates fail to see the internet in proper perspective – seeing it as more transformative or more universal than it is, and/or underestimating the importance of other factors in social and political change.
  - 2) The international human rights regime and mainstream human rights organisations rely on responsible government, legal instruments and the rule of law to provide the framework for implementation of rights. The internet has developed with much less government involvement and legal/regulatory governance, and many within the internet community prefer to minimise rather than rely on government intervention and legal frameworks. Enabling (rather than avoiding) the rule of law, where the internet and internet-enabled outcomes are concerned, is therefore a significant difference in paradigm.
  - 3) Some personnel in mainstream rights organisations see the internet community as being particularly concerned with selected rights with the international rights regime – in particular freedom of expression – without understanding the human rights regime as a whole or the relationships/balances within that regime between these and other

rights. Interviewees felt that the changing relationships between rights should not be seen as a contest between them but as a challenge requiring careful judgements to be taken that respect all of the rights within the rights regime. In particular, it should be understood that fundamental rights are not absolute rights; and discussions about the impact of the internet on human rights should consider harms as well as benefits resulting from the internet.

- 14) There are complex issues involved in interpreting the human rights regime, including national and international jurisprudence, in which rights organisations have considerable expertise. There was a feeling that this was not always respected in (or thought relevant by) some parts of the internet community. There was frustration about the polarisation which has occurred in some debates concerned with human rights and the internet. This is most obviously the case with issues of security, privacy and (especially) child protection. It is clear that some interviewees feel that, while generally sympathetic to human rights concerns, internet advocates have little understanding of the complexity of rights issues and pay too little attention to issues that lie outside the internet. This may be because they regard the internet as transformational in ways that the human rights community, by and large, does not.
- 15) Personnel from mainstream human rights organisations recognise the limitations of their own understanding of the internet, and of its present and likely future impacts on society. High workloads and limited resources mean that they have not been able to devote sufficient time and capacity to understanding how the internet works or analysing the impact of the internet on those areas with which they are concerned. While the internet is often mentioned as an area to which they should devote more thought, there is not much sign in these interviews that that is likely to happen in the near future.
- 16) One result of this is that human rights organisations have limited understanding of those 'internet rights' issues which derive from what are sometimes called 'fundamental/founding principles of the internet' – issues such as net neutrality – and are likely to attach limited importance to them unless they are securely located in the international rights regime. The term 'internet rights' was not seen as useful or helpful by interviewees. Attempts by internet advocates to recruit human rights organisations in support of these 'internet rights', without locating them in the human rights regime in ways that mainstream organisations consider appropriate and proportionate, are unlikely to be successful or to foster dialogue.
- 17) Personnel from human rights organisations recognised a number of ways in which the internet has enabled them to function more effectively – notably in acquiring and researching information, naming and shaming rights violators, coordinating activities internally and with other rights organisations, communicating with wider audiences, and interacting more effectively with the media. However there are limitations to the extent to which human rights organisations can make use of information sourced from new media. While new information formats (e.g. online video, Twitter) are valuable resources which extend the ability of rights organisations to publicise violations, those organisations have to authenticate information rigorously in order to avoid the risk of error or manipulation and consequent loss of public/media confidence.

- 18) There are also limits to the organisational value of the internet. Not everyone is comfortable working with new media, and the quality of internet connectivity and services such as Skype is often too poor to be relied upon. Human rights organisations have so far used the internet tactically rather than strategically. Improvements in the use of internet (and intranets) for internal communications and other purposes could almost certainly be made, if sufficient resources were devoted to equipment and training. However, this has not so far been a priority in organisations' strategic planning processes.
- 19) The relationship between human rights and internet communities is felt to be relatively limited. There is a sense that internet advocates are instinctively positive towards human rights (or what they see as human rights, which is not necessarily the same), but that they lack understanding of them and particularly of the mechanisms (such as legal instruments and United Nations processes) that human rights organisations consider central to their work. Dialogue between the two communities was considered limited, even by interviewees with experience of both.

## ANNEX 1 – ASSESSING THE IMPACT OF THE INTERNET ON UDHR RIGHTS

UDHR article			Impact of ICTs				
			Impact	Balances	High impact	Specific impact	General impact
<b>Civil and political rights</b>							
1	Equality of rights	All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.	Some impact				Balance between rights and responsibilities.
2	Universal entitlement	Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person	Some impact				Entitlement to access in context of new facilities/services/technologies.  Impact of roll-out of new services on equality of access.  Potential inequality in application of law and other rights to those who have and do not have access to internet

		belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.				(and its ability to bypass legal constraints).
3	Life, liberty and security	Everyone has the right to life, liberty and security of person.	High impact	Security and privacy	Threat to security from crime, terrorism, etc through use of internet (and obligation on state actors to protect against these). Abuse of state power, surveillance, etc. Threat to the integrity of the internet from malware, hacking, etc. (and obligation on state actors to protect against these).	The same instruments can be used to protect the security of communities/individuals and to undermine rights of privacy.
4	Freedom from slavery	No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.				

5	Freedom from torture	No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.					
6	Legal recognition	Everyone has the right to recognition everywhere as a person before the law.	Some impact				Impact on rule of law. Potential inequality in application of law and other rights to those who have and do not have access to internet (and its ability to bypass legal constraints).
7	Equality before the law	All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.	Some impact				Equality of impact and relationship to access. Potential inequality in application of law and other rights to those who have and do not have access to internet (and its ability to bypass legal constraints).
8	Right of remedy	Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.	Some impact				Equality of access to instruments of redress.
9	Freedom from detention	No one shall be subjected to arbitrary arrest, detention or exile.					
10	Right to fair trial	Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and	Medium impact			Rules of fair trial - limits to freedom of expression.	

		obligations and of any criminal charge against him.					
11(1)	Presumption of innocence	Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.	Medium impact			Rules of fair trial - limits to freedom of expression.	
11(2)	Non-retrospective justice	No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.					Potential implication because of the uncertain implications of the internet for existing criminal law.
12	Right of privacy	No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.	High impact	Privacy and security	Ability of governments, businesses (and individuals) to monitor online (and thereby offline) behaviour and networks in relation to political and cultural activity, criminal activity, etc.; hacking; data protection issues; increased scope for		

					fraud and other issues of crime/security.		
	Protection against defamation		High impact	FofE and protection against defamation	Increased capacity of internet users to defame; wider spread and impact of defamatory content; impact of anonymity; uncertain boundary of defamation.		
13(1)	Freedom of movement	Everyone has the right to freedom of movement and residence within the borders of each state.					
13(2)	Freedom from exile	Everyone has the right to leave any country, including his own, and to return to his country.					
14(1)	Right of asylum	Everyone has the right to seek and to enjoy in other countries asylum from persecution.					
14(2)		This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.					

15(1)	Right of nationality	Everyone has the right to a nationality.					
15(2)		No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.					
16(1)	Right to marry	Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.					
16(2)	Consent to marry	Marriage shall be entered into only with the free and full consent of the intending spouses.					
16(3)	Protection of the family	The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.					
17(1)	Right of property	Everyone has the right to own property alone as well as in association with others.	Some impact				Related to intellectual property provision of Article 27.
17(2)		No one shall be arbitrarily deprived of his property.					

18	Freedom of conscience and religion	Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.	High impact	Individual and cultural identity / norms	Freedom of expression and access to information issues.	Apostasy and proselytisation; online expressions of religious opinion.	
19	Freedom of expression	Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.	High impact	FofE and limits to FofE in other Articles and rights instruments	<p>Freedom of expression; extension of ability to exercise freedom of expression through self-publication, anonymity, etc. (particularly significance of Web 2.0).</p> <p>Legal constraints on freedom of expression, including censorship of various kinds (political, cultural); uncertain application to new media and difficulty of enforcement.</p> <p>Use of freedom of expression in contexts that can be deemed to threaten security (Article 3); inhibit fair trial (Articles 10 and 11);</p>	Limits or implied limits in other rights instruments including Convention on the Rights of the Child (child pornography; child protection); Convention on Elimination of All Forms of Discrimination (promotion of racial or religious discrimination).	<p>Relationship between governments and businesses in terms of enforcement.</p> <p>Changes in behavioural norms regarding public expression.</p> <p>Relationship to freedom of the press, etc.</p>

					<p>infringe privacy or enable defamation (Article 12); intellectual property (Article 27); rights of others or public order and morality (Article 29).</p> <p>Access to public information.</p>		
20(1)	Freedom of association	Everyone has the right to freedom of peaceful assembly and association.	High impact	FofA, privacy, security	<p>Freedom of association and assembly. Increased ability to organise activity, including political activity and criminal activity. Increased scope for state surveillance of and through new media.</p>		
20(2)		No one may be compelled to belong to an association.					

21(1)	Right to participate in government	Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.	High impact		Freedom of information. Access to knowledge. Participation in political activity.		
21(2)	Equal right to public services	Everyone has the right of equal access to public service in his country.	High		Equality of access to public services; implications for possible right of access.		
21(3)	Democratic elections	The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.	Some impact				Relevance of democratically accountable decisions to internet-related issues including access, censorship, surveillance.
<b>Economic and social rights</b>							
22	Right to social security	Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.	Some impact				Entitlement is affected by equality of access to information, and so potentially by equality of access to internet.

23(1)	Right to work	Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.	Some impact				Entitlement is affected by equality of access to information, and so potentially by equality of access to internet.
23(2)	Equal pay	Everyone, without any discrimination, has the right to equal pay for equal work.	Some impact				Entitlement is affected by access to information, and so potentially by equality of access to internet.
23(3)	Fair pay	Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.	Some impact				Entitlement is affected by access to information, and so potentially by equality of access to internet.
23(4)	Trade union rights	Everyone has the right to form and to join trade unions for the protection of his interests.	Some impact			Connected to right of association.	
24	Right to leisure	Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.					
25(1)	Right to an adequate standard of living, health and welfare	Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment,	Some impact				Entitlement is affected by equality of access to information, and so potentially by equality of access to internet.

		sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.				
25(2)	Equal rights of children	Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.				
26(1)	Right to education	Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.	Medium impact		Potential role of the internet in delivering education to the standards implied in the Article.	
26(2)	Promotion of racial and religious tolerance	Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the	Medium impact		Requirement for specific content in education, which implies constraint on freedom of expression.	

		maintenance of peace.					
26(3)	Education choice	Parents have a prior right to choose the kind of education that shall be given to their children.	Some impact				
27(1)	Right to cultural life	Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.	Medium impact			Implications for the visibility of culture on the internet; issues of access and cultural diversity, e.g. multilingualism.	
27(2)	Protection of intellectual property	Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.	High impact	FofE and IP	Protection of intellectual property, which is more easily infringed/bypassed through internet.		
28	International order	Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.					
<b>Rights and responsibilities</b>							

29(1)	Responsibilities to the community	Everyone has duties to the community in which alone the free and full development of his personality is possible.	Some impact				Responsible use. Changes in behavioural norms.
29(2)	Protection of rights of others	In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.	High impact	FofE and rights of others	Limitations to exercise of rights above - particularly those which are easier to exercise (and to exercise in ways that affect the rights of others) has been increased by the internet. Balance between freedom of expression and privacy, defamation and intellectual property.		
	Protection of social order and morality		High Impact	FoE and role of state	Limitations to exercise of rights above - particularly those which are easier to exercise (and to exercise in ways that affect the role of the state) has been increased by the internet. Balance between freedom of expression, privacy and security.		
29(3)	Overriding authority of principles of United Nations	These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.					

30	Primacy of rights outcomes	Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.	High	FofE and rights of others and role of state	As Article 29.		
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